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COMMITTEE ON THE RIGHTS OF THE CHILD

Seventh session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Spain

1. The Committee considered the initial report of Spain (CRC/C/8/Add.6) at its 171st, 172nd and 173rd meetings (CRC/C/SR.171-173), held on 6 and 7 October 1994, and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its comprehensive report and for engaging, through a high-ranking delegation, in a constructive and frank dialogue with the Committee. The Committee also welcomes the written information provided by the Government of Spain in reply to the questions set out in the list of issues (CRC/C.7/WP.1) which were communicated to it before the session, although, due to lack of time, the written information could be made available in the original language of submission only.

B. Positive factors

3. The Committee notes with satisfaction the declaration made by Spain at the time of its ratification of the Convention with regard to the provisions of paragraphs 2 and 3 of article 38 and the commitment of the State party not to permit the recruitment and participation in armed conflict of persons below the age of 18 years.

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* Adopted at the 183rd meeting, held on 14 October 1994.

4. The Committee also welcomes the open and self-critical approach taken by the Government of Spain in preparing its report.

5. The Committee welcomes the judgement of the Spanish Constitutional Court of 14 February 1991 declaring unconstitutional the procedure that juvenile courts followed in the past. The Committee notes with satisfaction the ruling of the Constitutional Court which explicitly takes up in full the terms of article 40, paragraph 2 (b), of the Convention and concludes, inter alia, that the fundamental rights brought together by the Spanish Constitution have to be respected also in criminal proceedings against minors.

6. The Committee further welcomes the fact that, in Spain, discriminatory acts committed by a public official are considered criminal offences under the law.

C. Principal subjects of concern

7. The Committee is concerned at the fact that effective coordination has not been fully developed between central authorities and regional and local authorities in the implementation of policies for the promotion and protection of the rights of the child. Coordination is also necessary for the purpose of monitoring in order to avoid disparities developing in the implementation of economic, social and cultural programmes relating to children.

8. The Committee is concerned at the impact on the rights of the child of the high rate of unemployment and the deterioration of the economic and social environment.

9. The Committee is worried about one aspect of the treatment of unaccompanied minors seeking refuge which may contradict the principle that each case be dealt with on an individual basis and on its own merits. The practice of automatically informing the authorities of their country of origin may lead to their persecution, or the persecution of their relatives, for political reasons.

10. Furthermore, the Committee expresses concern at the wording of article 154 of the Spanish Civil Code which provides that parents "may administer punishment to their children reasonably and in moderation", which may be interpreted to allow for actions in contradiction with article 19 of the Convention.

11. The Committee expresses its concern at the high percentage of single parent families and the need for special programmes and services to provide the necessary care for children from such families.

D. Suggestions and recommendations

12. The Committee recommends that the State party strengthen the coordination mechanisms existing in its constitutional and legislative framework and develop evaluation and monitoring at all levels of the administration, central, regional and local (including the comunidades autónomas), to ensure that the Convention on the Rights of the Child is fully respected and implemented.

13. The Committee further recommends that the Government of Spain gather all the necessary information in order to have an overall view of the situation in the country and to ensure a comprehensive and multidisciplinary evaluation of progress and difficulties in implementing the Convention. This evaluation should enable it to shape appropriate policies to combat disparities and lasting prejudices.

14. The State party is recommended to pay particular attention to the implementation of article 4 of the Convention and ensure a balanced distribution of resources at the central, regional and local levels. In establishing the budget allocated to the promotion and protection of economic, social and cultural rights, the best interests of the child should be taken as a primary consideration and available resources should be allocated to their maximum extent.

15. It is recommended that the State party consider reviewing its programme for international cooperation in order to assess the possibility of giving more emphasis to the social sectors and to direct the assistance to the most underprivileged children.

16. Measures should be taken to disseminate information and increase awareness about the Convention and to prevent discriminatory attitudes or prejudices towards vulnerable groups of children including migrant children and gypsies. To this effect, the Committee suggests that law enforcement officials, judges, other administration of justice officials and, more generally, members of professions concerned with the implementation of the Convention be provided with adequate training on the basic principles and norms contained in it.

17. The Committee suggests that the State party consider institutionalizing the existing relations with non-governmental organizations and research institutions in order to mobilize popular participation in activities and programmes relating to the promotion and protection of the rights of the child.

18. Furthermore, the Committee encourages the Spanish authorities to pursue the law reform to ensure full compliance of the domestic legislation with the provisions of the Convention. In this regard, the Committee recommends that the law reform include the review of the language used in legal provisions and, in particular, the revision of article 154 of the Spanish Civil Code stating that parents "may administer punishment to their children reasonably and in moderation", in order to bring it into full conformity with article 19.

19. The Committee recommends the State party to consider legal amendments in order to ensure the right to participation of children, including the right to freedom of association and to freedom of peaceful assembly as reflected in article 15 of the Convention.

20. The Committee also recommends that the Government of Spain improve the system of safeguards in the cases of intercountry adoption. In this connection, the Committee encourages Spain to consider ratifying the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

21. Further steps should be taken to strengthen the system of assistance to both parents in the performance of their child-rearing responsibilities, in particular in the light of article 18. It is further suggested that the problem of single parenthood be studied and that relevant programmes be established to meet their particular needs.

22. The Committee recommends that the Government of Spain take all the necessary measures to guarantee that refugee children, children who are asylum seekers and unaccompanied children enjoy the rights recognized by the Convention on the Rights of the Child and that, in accordance with its article 10, applications for asylum made for the purpose of family reunification be dealt with in a positive, humane and expeditious manner.

23. The Committee encourages the Government of Spain to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

24. The State party should give particular attention to the implementation of the provisions of article 32 of the Convention aimed at protecting the child against economic exploitation as well as to the implementation of the relevant conventions of the International Labour Organisation that it has ratified.

25. Finally, the Committee recommends that the initial report of Spain, the summary records of the meetings of the Committee in which the report was considered and the concluding observations of the Committee on the report be published and disseminated as widely as possible in Spain.

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